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In re Application of :
Tina Meinertz Andersen *et al* :
Application No. 10/068,224 : DECISION ON PETITION
Filed: February 5, 2002 :
Attorney Docket No. 6248.200-US :

This is a decision on the petition filed on August 4, 2004 by which petitioners request that the period for filing a reply to the final action dated February 18, 2004 be reset, and that any extension fees paid in order to reply to that Office letter be refunded. The petition is being considered under 37 CFR 1.181, and no fee is required for the petition. A refund of the \$130.00 fee tendered with the petition will be credited to deposit Account No. 14-1447.

The petition is dismissed.

As a basis for the requested relief, petitioners allege that counsel changed their address in 2002 and that the new correspondence address was referred to in a paper filed in November 2003 in response to an Office action. Petitioners also allege that a change of address in this application was submitted in September 2002. Petitioners support their allegation by furnishing:

A declaration by Ms. Tracy Bronner, docket coordinator;

A copy of a Request for Customer Number Data Change (form PTO/SB/124A) having a handwritten date of September 11, 2002 thereon;

A Notice of Customer Number Record Change dated September 12, 2002; and

Three pages of a "spreadsheet" that was submitted on November 12, 2003 by Ms. Bronner.

A review of the application record shows that as originally filed, this application contained a power of attorney in favor of Reza Green, Peter J. Weibel and Richard W. Bork, with instructions to address correspondence to Reza Green at :

Novo Nordisk of North America
405 Lexington Avenue
Suite 6400
New York, New York 10174-6400

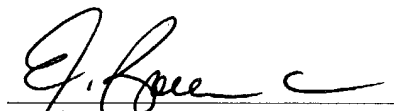
There was no association of this application with a Customer Number at all in the application as filed, and it does not appear that the instant application was ever properly associated with a Customer Number. Declarant Bronner states a request for Customer Number Data Change on September 11, 2002. However, it appears that the only result of the submission of this form, executed by Reza Green, was to change the practitioners associated with Customer No. 23650. Petitioners should note that the Notice of Customer Number Record Change dated September 12, 2002 was in fact mailed to the Lexington Avenue address, and simply indicates the change in practitioners associated with the Customer Number. To the extent that petitioners rely upon the spreadsheet submitted by Declarant Bronner on November 12, 2003, it does not appear that Declarant Bronner was at that time a registered practitioner. Therefore, even assuming that a change of correspondence address change for a particular application could be effected in **this** application by changing the data associated with a Customer Number when that Customer Number had not previously been associated with **this** particular application, Declarant Bronner was not authorized to change the correspondence address. See 37 CFR 1.33.

The record shows that at no time prior to September 11, 2002 was the correspondence address of **this** application associated with a Customer Number. As discussed in MPEP § 409, there are several different Office forms that can be used to accomplish different things with respect to Customer Numbers, and several different Office forms that can be used to make various changes with respect to data previously associated with a Customer Number. The showing submitted by petitioners has established only that certain registered practitioners have been associated with a Customer Number as per the September 11, 2002 Request for Customer Number Data Change. However, petitioners have not established that any correspondence address for this application was ever associated with a list of applications or patents to be associated with a Customer Number (see item (E) on page 400-12 of the current edition of the Manual of Patent Examining Procedure). In fact, it appears that petitioners did not designate the correspondence address of **this** application by Customer Number until August 4, 2004.

In light of the above analysis, petitioners' failure to timely receive correspondence at the correspondence address of record does not warrant the relief requested, because petitioners did not file a proper change of correspondence address prior to the mailing of the paper in question. In that regard, petitioners should note the discussion in MPEP § 601.03 with respect to the need for associating applications with a Customer Number before a change of correspondence address may be filed as a "batch change" (such as by filing a "spreadsheet"), as well as with respect to the mere inclusion in a paper being filed for another purpose of a different correspondence address. The failure to properly file a change of correspondence address is the reason that petitioners did not seasonably receive the Office letter in question. The time for replying thereto will not be re-set, and the extension of time fee necessary to extend the period for filing a reply thereto will not be refunded.

Petitioners are entitled to file a renewed petition under 37 CFR 1.181, without fee, setting forth any additional evidence bearing on the matters discussed above. However, the renewed petition must be filed within two months of the date of this Decision, and the time for taking appropriate action in reply to the Office letter dated February 18, 2004 will not be stayed either by the filing of the instant petition or a renewed petitioned. See 37 CFR 1.181(f).

PETITION DISMISSED.



E. Rollins-Cross, Director
Technology Center 3700

Novo Nordisk, Inc.
Patent Department
100 College Road West
Princeton, NJ 08540